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Letter dated 3 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 7 March 2002 (S/2002/260).

The Counter-Terrorism Committee has received the attached supplementary report from Bahrain, submitted pursuant to paragraph 6 of resolution 1373 (2001).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 19 February 2003 from the Permanent Representative of Bahrain to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

With reference to your letter dated 7 March 2002, I have the honour to forward the supplementary report of the Kingdom of Bahrain to the Counter-Terrorism Committee (see enclosure), together with the annexes referred to in the report.

I should be grateful if the text of the present letter and the enclosed report (without the annexes) could be circulated as a document of the Security Council. The enclosed annexes are included only for the Committee's records.

I hope the report provides all the information requested by the Committee.

(*Signed*) Tawfeeq **Almansoor**
Ambassador Extraordinary and Plenipotentiary

Enclosure

[Original: Arabic]

Supplementary report of the Kingdom of Bahrain (ref. S/2001/1210 of 14 December 2001) pursuant to paragraph 6 of Security Council resolution 1373 (2001)

With reference to the letter dated 7 March 2002 from the Chairman of the Security Council Committee concerning counter-terrorism (CTC) requesting clarifications to supplement the report (S/2001/1210) of the Kingdom of Bahrain on the steps that it has taken to implement Security Council resolution 1373 (2001) concerning counter-terrorism, the following are replies, in order, submitted by the Government of the Kingdom of Bahrain to the points on which clarification was requested in the note from the Chairman of the Committee:

1. Paragraph 1

1.1 **Could Bahrain please clarify whether the circulars issued by the Bahrain Monetary Agency (BMA) have the force of law?**

The circulars issued by BMA do have the force of law. They are binding on those to whom they are addressed and must be applied immediately upon receipt, as a form of secondary legislation. The Agency Law (para. 14) authorizes BMA to draw up the regulations required to apply the provisions of the Law and (para. 15) allows the Chairman of the Board to delegate his authority to other officials of the Agency.

1.2 **Please clarify the relationship, with respect to the prohibition and suppression of money-laundering, between the circulars of BMA and Decree Law No. 4/2001.**

Decree Law No. 4/2001 requires, *inter alia*, that the authorities, Ministries and Government institutions concerned shall, in coordination with the implementation unit, issue instructions concerning measures taken to prohibit and prevent money-laundering operations.

1.3 **Please explain whether the existing legal provisions allow freezing of other economic resources or other related services when used to support terrorist acts (para. 1 (c) of the resolution).**

The authority concerned may obtain a judicial order to enable it to seize or confiscate such assets under the Penal Code of 1976 or the Code of Criminal Procedure of 2002, depending on the specific nature of the request.

1.4 **CTC would be grateful to receive copies of the provisions of BMA circulars and Decree Law No. 4/2001 concerning the prohibition and suppression of money-laundering, including the provisions for punishment.**

Decree Law No. 4/2001 concerning the prohibition and suppression of money-laundering is attached as annex 1.

The BMA circulars and bulletins addressed to all banks, brokers and money-changers are attached as follows:

1. Circular concerning economic sanctions against and relating to the Taliban (annex 2);
2. Circular concerning Financial Action Task Force recommendations on terrorist financing (annex 3);
3. Circular concerning money-laundering measures (annex 4);
4. Circular concerning economic sanctions against and relating to Usama bin Laden (annex 5);
5. Circular concerning Security Council resolution 1373 (2001) on prevention of the financing of terrorism (annex 6);
6. Questionnaire concerning suspicious financial transfers (annex 7).

1.5 It is stated that *hawalah* networks will not be permitted to operate without licences. Please describe the licence system and explain how Bahrain ensures that this system is not abused by persons connected with terrorist acts. Please explain in particular how the licence system prevents abuse in transactions involving countries where the *hawalah* system is not regulated.

Money is transferred by banks and exchange offices operating within the framework of licence requirements and under the supervision of BMA. Financial institutions must comply with the annexed circulars concerning suppression of money-laundering and the financing of terrorism. They are also subject to regular on-site inspections. Pursuant to the provisions of the money-laundering law, these institutions must exercise prudence, particularly in transactions with clients from countries lacking good laws and practices to suppress money-laundering.

2. Paragraph 2

2.1 Please describe how the Penal Code promulgated by Decree Law No. 15/1976 covers the requirements of operative paragraphs 2 (a), (b), (c) and (d), given that there are no explicit references to terrorist acts in the Code.

With respect to the question whether the Penal Code fulfils the requirements of Security Council resolution 1373 (2001) (para. 2), reference to the Code, as promulgated by Decree Law No. 15/1976, reveals the following provisions:

Article 6

The provisions of this Code shall apply to any national or alien who commits outside the State of Bahrain any act that makes him a perpetrator of or accessory to an offence prejudicial to the external or internal security of the State, as specified in part II, chapter 1, sections 1 and 2, or the offence of forging State seals and emblems or counterfeiting currency and monetary instruments, as specified in articles 257, 262 and 263.

Article 45

Whosoever is involved as a perpetrator of or accessory to the offence shall be subject to the corresponding penalty, unless otherwise specified by the Code.

Article 129

Whosoever deliberately destroys, wrecks or ruins weapons, ships, aircraft, equipment, installations, devices, utilities, munitions, provisions, medicines or other items intended for defence of the State or used for that purpose shall be subject to rigorous imprisonment for life or for a term.

The same penalties shall apply to whomsoever deliberately sabotages their production or repair or acts in such a way as to render them, albeit temporarily, unfit for their intended use or otherwise harmful. The death penalty or rigorous imprisonment for life shall apply if the offence is committed in time of war.

Article 137

A person shall be prosecuted as an accessory to the offences specified in this section if:

1. He was aware of the offender's intentions and provided him with aid, means of subsistence, accommodation, shelter, a meeting-place or other assistance; he bore his messages, helped him to find the object of the offence, concealed him, transported him or provided him with information;

2. He knowingly concealed items used or designed to be used in, or derived from, commission of the offence;

3. He deliberately destroyed, misappropriated, concealed or altered a document revealing the offence, providing evidence of it or facilitating prosecution of its perpetrators.

This article shall not apply to the spouse, progenitors or offspring of the offender.

The court is empowered to excuse relatives of the offender, including relatives by marriage, up to the fourth degree of separation, unless they are prosecuted under another article of this Code.

Article 148

Whosoever conspires forcibly to overturn or alter the Constitution of the State, the rule of the Amir or the form of government, or to usurp such rule shall be subject to rigorous imprisonment for life or for a term.

Where the offence is committed by an armed band, whosoever formed, headed or occupied any leading position in the band shall be subject to the death penalty.

Article 149

Whosoever conspires forcibly to occupy a public building or the premises of Government agencies or any of the authorities mentioned in article 107, paragraphs 1, 5 and 6 shall be subject to rigorous imprisonment for life or for a term. Where the offence is committed by an armed band, whosoever formed, headed or occupied any leading position in the band shall be subject to the death penalty.

Article 150

Whosoever takes control of a division or section of the army, a warship, warplane, military position, port or city without Government authorization or other legitimate reason shall be subject to rigorous imprisonment for life.

Article 152

Whosoever forms a band which attacks a group of people, puts up armed resistance to police officers to prevent law enforcement, heads such a band or occupies any leading position therein shall be subject to the death penalty.

Whosoever joins such a band without participating in its formation or occupying any leading position therein shall be subject to rigorous imprisonment for life or for a term.

Article 153

Whosoever assumes control of an armed band, occupies any leading position therein or otherwise manages its movements or actions for the purpose of seizing or usurping land or property owned by the Government or a group of people, or resists the military force responsible for pursuit of the perpetrators, shall be subject to the death penalty.

Other members of such a band shall be subject to rigorous imprisonment.

Article 154

Whosoever knowingly gives or provides to a band as described in the article above weapons, equipment or machines used to achieve its objective, or sends it supplies, collects funds for it, enters into criminal communications in any manner whatever with the chiefs or administrators of such bands, or, knowing its purpose and character, provides them with accommodation or premises where they take refuge or meet together shall be subject to rigorous imprisonment for life or for a term.

Article 277

Whosoever causes a fire endangering the life of individuals or their property, whether movable or immovable, even if that property is his own, shall be subject to rigorous imprisonment for a term not exceeding ten years.

Causing a fire in a public building, premises used for public purposes, a residential complex or one intended for such use, on a means of public transport, or in munitions, weapons, explosives, fuel, mines, pipes or oil wells, shall be considered as aggravating circumstances.

The penalty shall be rigorous imprisonment if the fire leads to permanent disablement; if it leads to a human fatality, the penalty shall be death or rigorous imprisonment for life.

Article 278

Whosoever negligently sets fire to the movable or immovable property of another shall be subject to imprisonment and a fine, or to one of these two penalties.

Article 279

Whosoever uses explosives to commit an offence as specified in article 148 or to sabotage buildings or installations of public utility or intended for the use of Government agencies or one of the authorities mentioned in article 107, or for public meetings, or other buildings or premises designed to be frequented by the public, shall be subject to the death penalty.

Article 280

Whosoever knowingly uses or conspires to use explosives in such a way as to endanger human lives shall be subject to rigorous imprisonment.

If the explosion causes a human fatality, the penalty shall be rigorous imprisonment for life.

Article 281

Whosoever knowingly uses or conspires to use explosives in such a way as to endanger the property of another shall be subject to rigorous imprisonment for a term not exceeding ten years.

If the explosion causes serious damage to property, the penalty shall be rigorous imprisonment.

Article 282

Whosoever knowingly causes a serious accident on board a ship, aircraft or any other means of public transport shall be subject to rigorous imprisonment for life.

Article 283

Whosoever knowingly endangers the life or safety of individuals by placing materials, germs or other items which may cause death or serious damage to public health in a well, reservoir or other facility designed for public use shall be subject to rigorous imprisonment for life or for a term.

Article 284

Whosoever knowingly endangers a means of public land, air or sea transport or in any way impedes its functioning shall be subject to rigorous imprisonment.

Whosoever in any way impedes a means of public cable or wireless communication shall be subject to rigorous imprisonment for a term not exceeding ten years.

Article 285

Where the action specified in the preceding articles results in a human fatality, the offender shall be subject to the death penalty or rigorous imprisonment for life.

Article 286

Whosoever in any way knowingly endangers a means of private transport shall be subject to imprisonment and, where the result is a human fatality, the penalty shall be rigorous imprisonment.

Article 287

Where an offender, for the purpose of committing an offence specified in this or the preceding section, takes advantage of turmoil or strife, or uses force or the threat of force to commit his offence, this shall be an aggravating circumstance.

Article 288

Whosoever negligently causes the perpetration of any offence specified in this section shall be subject to imprisonment and a fine, or to one of these two penalties.

Article 289

Whosoever transports or conspires to transport explosives or flammable materials in a means of land, sea or air transport or to mail them in letters or parcels in violation of the pertinent rules and regulations shall be subject to imprisonment for a term not exceeding six months and a fine not exceeding 50 dinars, or to one of these two penalties.

Article 290

Whosoever knowingly disturbs another by misuse of cable and wireless communications equipment shall be subject to imprisonment for a term not exceeding six months and a fine not exceeding 50 dinars.

Article 291

Whosoever in any way damages a device, instrument or other piece of equipment designed for use by the ambulance, fire or water rescue services, or by any other emergency service, shall be subject to imprisonment for a term not exceeding one year.

It will be clear from the foregoing provisions that they do in fact cover criminalization and prosecution of all terrorist acts, in accordance with the requirements of para. 2 of Security Council resolution 1373 (2001).

2.2 **Does Bahrain intend to propose new legislation relating specifically to terrorist acts, or actions related thereto?**

In addition to the comments above, the competent authority has drawn up a draft amendment to the Penal Code, emphasizing the criminalization of terrorist acts and stiffening related penalties as a deterrent. It also criminalizes all forms of collection of contributions for, or funding of, such groups, as well as financial transactions of any sort with terrorist elements or groups. It explicitly provides for criminalization of the terrorist acts referred to in related international conventions.

2.3 **Is there any early warning mechanism to allow exchange of information with other States?**

The early warning mechanism used by other States, designed to prevent the commission of terrorist acts, is based on immediate, rapid exchange of information with the security services of such States, by means of direct, personal contact or modern means of electronic communication.

The Ministry of the Interior has established a counter-terrorism section within the organizational structure of the National Security Service and designated it as the focal point for exchange of information through this mechanism.

2.4 **Please provide the CTC with information on the mechanism for inter-agency co-operation for a unified approach in implementing this sub-paragraph as regards the interaction between the authorities responsible for narcotics control, financial tracking and security.**

The competent authority in Bahrain and its security services are committed to positive cooperation, effective coordination and continuous consultation with the security services of other countries and to the exchange of any information on prevention of terrorist acts and the prevention and suppression of funding for terrorism. They are always fully prepared to exchange information with them, to assist in the taking of preventive measures or to conduct any enquiries or investigations that may be requested in this regard.

On the national level, cooperation and coordination is assured by the policy committee on the prevention and suppression of money-laundering, which comprises the competent Government agencies (Ministries of Foreign Affairs, Justice, the Interior and Finance and National Economy, and the Bahrain Monetary Agency). There is also direct contact between the Government agencies concerned and swift, immediate exchange of information on the suppression of terrorism, organized crime and tracking and prevention of any links between terrorist groups and organized crime gangs.

On the regional level, there is close cooperation, joint coordination and continuous consultation among security services through the Cooperation Council for the Arab States of the Gulf, the Council of Arab Ministers of the Interior (League of Arab States), as well as cooperation and coordination with other friendly countries.

2.5 **Could Bahrain please outline the legal provisions aimed at complying with paragraphs 2 (c) and (g) of the resolution.**

Article 154 of the Penal Code above prohibits the giving of shelter to any terrorist armed band and states that anyone violating this rule shall be subject to rigorous imprisonment for life or for a term. Article 137 of the same Code establishes the same penalty as that for the underlying offence in respect of any person knowing the intentions of the offender who provides him with any aid, means of subsistence, accommodation, shelter, meeting-place or other assistance. These articles therefore comply with paragraph 2 (c) of the Security Council resolution.

With regard to legal provisions for compliance with paragraph 2 (g) of the resolution, article 5 of Law No. 11/1975 concerning passports states that departure from or return to the country is permitted only through designated points, with the authorization of the competent passport officer. Article 18 of the same Law provides, without prejudice to any heavier penalty imposed by another law, that whosoever violates the provisions of article 5 shall be subject to imprisonment and a fine, or to one of these two penalties. The same penalty shall apply to whomsoever provides false information or makes false statements in order to obtain a passport for himself or any other person, or signs a document containing false information presented by an applicant for a passport or travel document.

Furthermore, articles 270 to 276 of the Penal Code promulgated by Decree Law No. 15/1976 (chapter 4, section 3) prohibit the forging of written documents and establish penalties for whomsoever violates these provisions by counterfeiting or forging identity papers or travel documents.

The above paragraphs demonstrate that national legislation does comply with the requirements set out in paragraphs 2 (c) and (g) of the Security Council resolution.

2.6 **Sub-paragraph 2 (e) requires that punishments duly reflect the seriousness of the offences. As there is no information in the report on this topic, the CTC would like to know if there are deterrent punishments for these offences in Bahrain.**

A reading of the provisions set out above under paragraph 2.1 reveals that, for most offences, the penalties imposed are rigorous imprisonment for life and, in some cases, the death penalty, both being formidable deterrents.

Also, Decree Law No. 16/1976 concerning explosives, weapons and munitions and Decree Law No. 4/2001 concerning the prohibition and suppression of money-laundering establish deterrent penalties for terrorist acts.

The country's competent authority has drawn up a draft amendment to the Penal Code, emphasizing the criminalization of terrorist acts and stiffening related penalties as a deterrent. It also criminalizes all forms of collection of contributions for, or funding of, such groups, as well as financial transactions of any sort with terrorist elements or groups. It explicitly provides for criminalization of the terrorist acts referred to in related international conventions.

2.7 **The CTC would be grateful to know what procedures and mechanisms are in place in Bahrain to assist other States in criminal investigations or criminal proceedings relating to the financing or support of terrorist acts.**

The Kingdom of Bahrain endeavours to ensure effective international cooperation within a comprehensive integrated system to combat terrorism.

3. Paragraph 3

3.1 **Sub-paragraphs 3 (a), (b) and (c) of the resolution call for exchange of information and cooperation amongst States on administrative and financial matters to prevent the commission of terrorist acts. Bahrain has reported the existence of such cooperation and exchange of information. Please elaborate on the existing measures, procedures and/or institutional mechanisms concerning the matters in the above-mentioned paragraphs. Are there any bilateral or multilateral arrangements to which Bahrain is a party?**

The competent authority has taken the necessary steps and measures to strengthen the coordination of national, regional and international efforts to confront the close linkage between international terrorism, organized crime, illicit traffic in narcotic drugs, money-laundering, trafficking in arms and noxious and lethal substances, and other forms of organized crime.

On the national level, cooperation and coordination is assured by the policy committee on the prevention and suppression of money-laundering, which comprises the competent Government agencies (Ministries of Foreign Affairs, Justice, the Interior and Finance and National Economy, and the Bahrain Monetary Agency). There is also direct contact between the Government agencies concerned and swift, immediate exchange of information on the suppression of terrorism, organized crime and tracking and prevention of any links between terrorist groups and organized crime gangs.

On the regional level, there is close cooperation, joint coordination and continuous consultation among security services through the Cooperation Council for the Arab States of the Gulf, the Council of Arab Ministers of the Interior (League of Arab States), as well as cooperation and coordination with other friendly countries.

3.2 **Please indicate by what date Bahrain proposes to ratify the seven universal instruments on the prevention and suppression of international terrorism that it has not yet ratified. Are there any separate laws or other means to implement the international conventions Bahrain has ratified? If so, please describe them. Please provide a report on progress in giving effect to the ratified conventions in domestic law.**

In answer to the first part of the question, the country's competent authorities are currently reviewing the international conventions on the prevention and suppression of international terrorism to which it has not yet acceded.

In answer to the second part, article 37 is the legal basis for the approval and ratification of treaties. Under paragraph 1 of that article, treaties are approved by decree and have legal force once approved, ratified and published in the Official Gazette.

Could Bahrain please indicate whether the crimes mentioned in the relevant international conventions have been included as extraditable offences in the bilateral treaties which Bahrain has concluded with other countries.

The offences mentioned in the aforementioned conventions have been incorporated into the bilateral agreements signed by Bahrain with other States. Furthermore, the bilateral, Arab and Islamic agreements to which Bahrain has acceded provide specific frameworks for the extradition and exchange of offenders. Crimes of terrorism are included among the offences in respect of which these agreements provide for extradition. Furthermore, article 11, paragraph 5, of the International Convention for the Suppression of the Financing of Terrorism, which was signed by Bahrain at New York on 14 November 2001, states: "The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention."

Accordingly, all bilateral agreements and treaties between States Parties are modified by this provision to criminalize the financing of terrorism, and persons linked to such activities are extradited or exchanged on this basis.

3.3 **Please indicate whether there are any legal or other means available to prevent persons linked to terrorist acts seeking asylum in Bahrain.**

Under national legislation, anyone who commits terrorist acts shall be called to account and subject to the penalties specified in the provisions above. Articles 137 and 154 of the Penal Code prohibit the sheltering of offenders or the provision of any aid or assistance to them in the form of accommodation, shelter or means of subsistence, etc., as set forth above.

3.4 **It is stated that Bahrain has ratified the Arab Convention for the Suppression of Terrorism by its Law No. 15/1998. Please outline this law.**

Bahrain has a firm and clear position of principle in condemning all forms and manifestations of terrorism, whatever their cause. It is determined to cooperate closely to prevent and suppress terrorism, and to prevent any form of financing of terrorism, in accordance with its commitments under related international resolutions, particularly Security Council resolution 1373 (2001). Bahrain has also ratified the Arab Convention for the Suppression of Terrorism under Decree Law No. 15/1998.

The Convention, which contains 42 articles, divided into four sections, addresses: the definition of terrorism and terrorist acts; measures to prevent and suppress terrorist crimes; avenues for Arab security cooperation (exchange of information, assistance, investigation, arrest of suspects or convicted persons); judicial cooperation measures for extradition and judicial orders; legal and judicial assistance; seizure and release of goods and assets linked to the offence or resulting from their seizure; exchange of evidence; and measures for the protection of witnesses and experts.

Under article 2, Bahrain, as a State Party, is obliged to prevent its territory being used to plan, organize or perpetrate terrorist crimes, to conspire to do so or to participate therein. It must prevent the infiltration of terrorist elements and their establishment in its territory, whether individually or collectively, and must prevent their being given refuge, shelter or financing or their using Bahrain's territory to cross to other States. It must also put in place effective control procedures at points of access to the country and on its borders to monitor traffic, check passengers and verify the validity of their identity and travel documents, in order to prevent, thwart and control any attempted movement by terrorist elements and groups. It must also exercise security control over

the issuance of travel documents and identity cards and take protective measures to prevent their being forged or usurpation of the bearer's identity.

Annex 8 includes a copy of the aforementioned Convention, as ratified under Decree Law No. 15/1998.

4. Paragraph 4

The CTC would be grateful to know if Bahrain has addressed any of the concerns expressed in paragraph 4 of the resolution.

See the replies to questions under paragraphs 1.5, 2.1, 2.5, 2.6 and 3.5 above.

5. Other matters

Could Bahrain please provide an organizational chart of your Government's administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen by your Government as contributing to compliance with the resolution.

The country's competent authorities are taking the necessary measures to activate an integrated anti-terrorism system and to ensure due implementation of Security Council resolution 1373 (2001).

Annex 9 includes an organizational chart of the Ministry of the Interior and the Directorate-General of Immigration and Passports.